IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

Crl.MC.No. 3079 of 2007()

CRMP.2760/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PALAKKAD

CRIME NO.30/2007 OF KONGAD POLICE STATION

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PETITIONER: ACCUSED 6 TO 8

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1. SOMU,S/O. RAMU,
   JAGINI POST OFFICE, ARABBANALLAM VILLAGE
   ANAIKKAL TALUK,BANGALORE, KARNATAKA.

2. SANKAR,S/O. KANYAN
   JAGINI POST OFFICE, ARABBANALLAM VILLAGE
   ANAIKKAL TALUK,BANGALORE, KARNATAKA.

3. SANYASI,S/O. SOMAVARAN,
   JAGINI POST OFFICE, ARABBANALLAM VILLAGE
   ANAIKKAL TALUK,BANGALORE, KARNATAKA.

BY ADV. SRI.C.D.DILEEP
SRI.M.SUBASH BABU

RESPONDENTS: COMPLAINANT

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1. S.I.OF POLICE, KONGAD POLICE STATION
   PALAKKAD DISTRICT.

2. THE STATE OF KERALA REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3079 of 2007

Dated this the 5th day of October 2007

O R D E R

The petitioners are accused 6 to 8. They face allegations for offences punishable inter alia under Section 395 I.P.C. The petitioners were arrested on 10/4/2007. They are continuing in custody from that date. The petitioners have been granted regular bail subject to conditions. The petitioners are aggrieved by condition No.2 imposed on them that both sureties must produce solvency certificates for an amount of Rs.25,000/- each. According to the petitioners, they are in custody only because they are unable to get sureties with solvency certificates. It involves unnecessary expenditure and effort. There is no one to look after the interests of the petitioners outside the prison who can procure such certificates. In these circumstances, rigid insistence on production of solvency certificates by the sureties may be dispensed with. Because of such insistence, notwithstanding the order granting bail dated 4/7/2007, the petitioners are not able to take advantage of the order granting bail. In respect of some of the co-accused, this court had, by

order dated 16/8/2007 in Crl.M.C.No.2501/07 modified the said conditions. Similar directions may be issued in this case, submits the learned counsel for the petitioner.

2. Having considered all the relevant circumstances, I am satisfied that a lenient view can be taken and the said condition No.2 can be modified. All the other conditions shall continue to remain in force.

3. In the result, this petition is allowed in part. The condition that the sureties must produce solvency certificates is deleted. The petitioners can be released on bail accepting the sureties, if the learned Magistrate is otherwise satisfied about the sufficiency, adequacy and solvency of the sureties. Any document/material can be produced before the learned Magistrate by the sureties to prove before the learned Magistrate their solvency. If so satisfied, the learned Magistrate must accept the sureties without insisting rigidly on production of solvency certificates by them.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007